Frequently Asked Questions (FAQs)
about the Changes to
Wisconsin's Hazardous Air Pollutant Program

General Questions

- When do we expect the changes to NR 445 to be published?

  The date is dependent on publication of the revisions by the Wisconsin Revisor of Statutes Bureau. In their April 15, 2004 issue of the Wisconsin Administrative Register they listed July 1, 2004 as the effective date of the rule.

- What are the new hazardous air pollutants?

  You can download a spreadsheet at: **http://www.dnr.state.wi.us/org/aw/air/HEALTH/airtoxics/**. *This spreadsheet has all of the hazardous air pollutants in the revised NR 445 and can be filtered to show which ones are new to the list.*

- What are the most common ones we can expect to see?

  It is hard to guess which of the hazardous air pollutants (HAP) we are most likely to see. According to a study done during rule development 165 chemicals were evaluated for their likely use in Wisconsin industry. After examining MSDS for over 250,000 products it was determined that about 1/3 of the 165 were likely to be emitted by industry in Wisconsin. The other 2/3's were either moderately likely or not likely to be found in Wisconsin industries. The 41 chemicals that were not likely to be found in Wisconsin are not regulated under the revised NR 445.

  You can learn more about the newly listed chemicals by using HAPsHelp developed by the UW-Extension, Solid and Hazardous Waste Education Center (exit DNR):
  http://www.uwex.edu/shwec/LIEBL/HAPs%20Help%20ver1.1.pdf

- How will affected industries learn about the revised rules?

  We will use a variety of distribution lists to provide electronic notifications to sources letting them know that the changes will be effective July 1, 2004. We will also be contacting other agencies, trade associations and organizations to help us get the word out. Staff can assist by informing sources about the changes during compliance inspections and permit meetings.

  As part of our rollout strategy we will be conducting 6 statewide industry workshops in cooperation with Dept. of Commerce's Clean Air Act Small Business Assistance Program and the Federation of Environmental Technologists. Here are the tentative dates and locations.

  Oct. 12: Eau Claire
  Oct. 13: Wausau
  Oct. 14: Milwaukee
  Oct. 19: Green Bay
  Oct. 20: Madison
  Oct. 21: Racine
  March 2005 – Milwaukee (breakout sessions at annual FET Conference)

Questions Regarding New Methods & Approaches

- What does due diligence mean?

  The rule defines due diligence as a reasonable investigation of likely sources of air emissions. This investigation includes, but is not limited to:

  - *reviewing substance information listed on material safety data sheets*
  - *determining whether it is reasonable to expect that a HAP will be created through a combustion or manufacturing process*
  - *determining if a substance is contained in, or created through, the treatment or disposal of raw material or waste.*

- What is safe harbor?

  A facility that exercises due diligence, and meets applicable compliance requirements for the identified emissions, will not be penalized if it is later discovered that they emit a regulated substance over a threshold level. The facility is required to come into compliance in a timely manner, but will not face retroactive penalties.

- Why are the old tables and language still in chs. NR 445?

  It was necessary to leave the existing tables and language in NR 445 in order to deal with transition issues.

  Sources will need time to identify and track newly regulated pollutants prior to those pollutants being included in annual emissions reports and applications for operation permits. Additionally, sources currently regulated under the state's hazardous air pollutant program will need to continue to meet existing standards until such a time that they certify compliance with the new standards and requirements.

  Leaving Tables 1-5 in s. NR 445.04 along with the accompanying rule language preserves existing standards until the new standards can be fully implemented. Tables and language will be removed in future rulemaking when they are no longer necessary.

- How do the new tables (A, B and C) in subchapter III of NR 445 work?

  Tables A, B and C list the hazardous air pollutants (contaminants) regulated in NR 445 along with their revised regulatory thresholds, emission standards and control requirements. These tables are designed to provide a source with the information they need to determine whether they are regulated under the chapter. Following is an explanation of how the tables are laid out and how they are intended to work. It is important to note that these tables can only be used for emissions being exhausted to the air through upright and unobstructed stacks.

  Contaminants are listed in one of three tables. Most sources will only need to look at ***Table A,*** *which applies to all sources. Tables B and C will apply to relatively few sources in Wisconsin.* ***Table B*** *applies to sources that manufacture or treat pesticides, rodenticides, insecticides, herbicides or fungicides.* ***Table C*** *applies to sources that manufacture or treat pharmaceuticals.*

  Column (a) *lists the name of the hazardous air contaminant. Common synonyms are listed in parenthesis. Contaminants with more than one row in columns (c)-(i) are contaminants that can cause one or more health effects. Consequently, these contaminants have more than one limitation that needs to be met.*

  Column (b) *lists the Chemical Abstracts Service (CAS) Number for the contaminant. This number is a number that can be used to more easily identify a contaminant when you are not sure of it's name.*

  Columns (c), (d), (e) and (f) *are emission thresholds for different stack (height) categories and are expressed in pounds per time period (hour or year) found in column (g). These thresholds act as regulatory "triggers" to determine who needs to demonstrate compliance with the emission standards and control*

requirements for that contaminant. A source with non-exempt, potential emissions equal to or less than the threshold values for the respective stack heights does not need to do anything further under the chapter. A source with non-exempt, potential emissions greater than the threshold values for the respective stack height must determine what they need to do to comply with the emission standards and/or control requirements listed in columns (g) and (i).

***Column (g)** lists the acceptable ambient standard for the contaminant expressed as a concentration in the air in microgram per cubic meters ($\mu g/m^3$). A "N/A" (not applicable) in this column means no ambient standard is associated with the thresholds in columns (c)-(f). In this case, the thresholds are associated with the control requirement listed in column (i).*

***Column (h)** lists one of three time periods to consider for the threshold and ambient air standard. These three periods are "1 hour", "24 hour average" or "annual".*

***Column (i)** lists the control requirement level for contaminants that are known (LAER) or suspected (BACT) to cause cancer. LAER or Lowest Achievable Emission Rate is the most stringent requirement requiring the highest level of control. BACT or Best Available Control Technology is generally less stringent than LAER and takes into account technology and energy costs.*

❖ How have exemptions changed?

The exemptions available under the existing NR 445 remain unchanged and apply to the hazardous air pollutants in Tables A, B and C. They can be found in s. NR 445.07(5).

New exemptions have been created for sources subject to the fuel, control and compliance requirements for compression ignition internal combustion engines burning fuel oil. These exemptions only apply to this section and can be found in NR 445.09(1).

Questions Regarding Existing Sources

- When do existing sources need to comply with the changes in NR 445?

  Existing sources must come into compliance with an emission standard for a new hazardous air pollutant, or a more stringent standard for an existing hazardous air pollutant within 36 months of the effective date of the rule (July 1 2007). In many cases, a source will only need to compare existing permit limits or previous NR 445 evaluations to the new standards to determine if further compliance work is necessary.

  Please keep in mind that the 36 month compliance schedule only applies in cases where a source needs to comply with a new or lowered standard. This schedule is not intended to provide 36 months of amnesty for sources who have failed to comply with existing requirements in NR 445.

  A source newly subject to BACT or LAER control requirements and that is not able to use the new compliance methods (e.g., risk modeling) will need to submit plans on how they will achieve the control requirements within 18 months (Jan. 1, 2006).

- How are compliance requirements included in operation permits?

  Compliance requirements may be included in operation permits issued or renewed on or after July 1, 2004. However the rule was developed in a way so as not to be disruptive to the operation permit process. Under the revisions a source may operate under a compliance certification until applicable requirements are rolled into it's operation permit in a future renewal.

- What do you do if you do not have emission information for one or more of the new pollutants for operation permits being processed this year?

  The revisions do not require new information to be included in operation permits prior to the end of the 36 month compliance schedule. Of course information may be considered if it is provided by the source during the review.

  The source is responsible for developing emission inventory information for calendar years 2004 and later. Information to determine applicable requirements will be more readily available once these inventories are established.

  If DNR staff is aware of, or has a reason to believe (e.g., based on previous experience or available information) that a hazardous air pollutant not reported is being emitted by the source, then they may ask the source to supply information. Any request for additional emissions information during the permit review will be supported by/reference the reason for the request.

- How are situations handled where a source currently needs to comply with NR 445 regulations, but would not need to do anything additional under the revised regulation?

  In this case the answer is simple. The source continues to operate as they do today.

- What about a situation where a source no longer has applicable requirements under NR 445?

  A source that is no longer required to comply with the requirements in NR 445 (e.g., a hazardous air pollutant is removed from the tables) may find itself in one of two situations.

  The first is a situation where the source did not have any requirements in a permit under the existing NR 445. In this case the source would not need to doing anything.

  The second situation, when there are requirements in a permit, requires the source to continue to operate under the permit until the permit is either revised or modified. Construction permit applicability must be reviewed for any change that will result in an increase in emissions.

- What do sources operating under BACT or LAER approvals (i.e., permit or order) need to do if the requirements to meet BACT or LAER are still applicable?

  If the BACT/LAER standard for a hazardous air pollutants has not changed then there is no reason to "revisit" the approval. A source operating under an approved BACT or LAER would continue to operate under the conditions of that approval in this situation. No compliance demonstration is required under the revisions in this situation.

- What if a source would like to use one of the new compliance methods instead of operating under a BACT, LAER or LAER variance approval?

  A source operating under an approved BACT, LAER or LAER variance may ask to use one of the new compliance methods rather than continue to operate under the approval. In these cases the source will need to either revise or modify their permit in order to have the BACT or LAER conditions changed or removed. The source needs to make any physical or operational change (e.g., raising a stack) necessary to use the new compliance method prior to the revised or modified permit being issued. Once again, a source may need to consider construction permit applicability if the change results in an increase in emissions.

  The 36 month compliance schedule does not apply in these types of situations.

- How should the following situation be handled? A source has a BACT approval for a hazardous air pollutant, but now the hazardous air pollutant standard has been changed to LAER (e.g., all forms of hexavalent chromium)?

  A source In this situation will have two options. They can either (1) use the compliance options to avoid LAER or (2) submit a plan to meet LAER. All work related to using the compliance options need to be complete within 36 months after the effective date of the rule (July 1, 2007). Plans to meet LAER must be submitted no later than 18 months after the effective date of the rule (Jan. 1, 2006). Final compliance date for LAER approval is the later of 36 months after the effective date of the rule or 18 months after department approval in a permit or order.

Questions Regarding New Sources

❖ When are new sources applying for construction permits evaluated under the revised standards?

Issuance & Startup Date	Limits, Thresholds & Compliance Methods
Issue permit & source startup prior to July 1, 2004	Existing rules
Issue permit prior to July 1, 2004. Source startup July 1 or later. (Source may elect to have condition in permit to delay startup if necessary to be considered on the revised rules.)	Revised rules
Issue permit & source startup July 1, 2004 or later	Revised rules
After the fact permits issued prior to July 1, 2004	Existing rules
After the fact permits issued July 1, 2004 or later	Revised rules

Contacts

❖ Questions concerning the implementation of HAP requirements as they relate to specific topics should be directed to the following team leaders and contacts:

Topic	Contact	Telephone e-mail
Construction Permits	Steve Dunn	608.267.0566 steve.dunn@dnr.state.wi.us
Operation Permits	Keith Pierce	608.267.0562 keith.pierce@dnr.state.wi.us
Compliance	Colin Duffy	608.266.9767 colin.duffy@dnr.state.wi.us
Emission Inventory	Ralph Patterson	608.267.7546 ralph.patterson@dnr.state.wi.us
Dispersion Modeling	John Roth	608.267.0805 john.roth@dnr.state.wi.us
Risk Assessment	Jeff Myers	608.266.2879 jeff.myers@dnr.state.wi.us
MACT Interface	Roger Fritz	608.266.1201 roger.fritz@dnr.state.wi.us
General Questions	Andrew Stewart	608.266.5499 andrew.stewart@dnr.state.wi.us